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General Docket

US Court of Appeals for the Third Circuit

Court of Appeals Docket #: 07-1712 Filed: 3/14/07
Nsuit: 4190 Contract: Other
WRS Inc v. Plaza Ent Inc, et al
Appeal from: United States District Court for the Western District of PA

- -

Lower court information:

District: 0315-2 : 00-cv-02041
Trial Judge: Arthur J. Schwab, District Judge
Court Reporter: Virginia S. Pease, Court Reporter
Date Filed: 10/13/00
Date order/judgment: 2/27/07
Date NOA filed: 3/8/07
District: 0315-2 : 03-cv-01398
Date Filed: 9/22/03
Date order/judgment: 2/27/07
Date NOA filed: 3/8/07

- -

Fee status: paid

- -

Prior cases:
None
Current cases:
None

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WRS INC
Appellee

Thomas E. Reilly
FAX 412-341-9996
412-341-1600
[COR NTC ret]
2025 Greentree Road
Pittsburgh, PA 15220

v.

PLAZA ENT INC
Appellee

John W. Gibson
FAX 412-471-1473
412-471-7785
[COR NTC ret]

tabbies EXHIBIT B

	1035 Fifth Avenue Pittsburgh, PA 15219
ERIC PARKINSON Appellee	John W. Gibson (See above) [COR NTC ret]
CHARLES VON BERNUTH Appellee	James R. Walker 412-232-0200 [COR NTC ret] Manion, McDonough & Lucas 600 Grant Street Suite 1414 Pittsburgh, PA 15219 John W. Gibson (See above) [COR NTC ret]
JOHN HERKLOTZ Appellant	John Sieminski FAX 412-995-3300 412-995-3061 [COR NTC ret] Burns, White & Hickton 106 Isabella Street Four Northshore Center Pittsburgh, PA 15212

07-1712 WRS Inc v. Plaza Ent Inc, et al

WRS INC

Appellee

v.

PLAZA ENT INC; ERIC PARKINSON; CHARLES VON BERNUTH;

Appellees

JOHN HERKLOTZ

Appellant

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3/14/07	CIVIL CASE DOCKETED. Notice filed by WRS Inc. (tmm)
3/14/07	RECORD available on District Court CM/ECF. (tmm)
3/23/07	APPEARANCE from Attorney Ira L. Podheiser on behalf of Appellant John Herklotz, filed. (tmk)
3/23/07	INFORMATION STATEMENT on behalf of Appellant John Herklotz, received. (tmk)
3/23/07	CONCISE SUMMARY OF CASE on behalf of Appellant John Herklotz, received. (tmk)
3/23/07	DISCLOSURE STATEMENT on behalf of Appellant John Herklotz, filed. (tmk)
3/23/07	TRANSCRIPT PURCHASE ORDER (Part I), ordering a transcript of the proceedings, filed. (tmk)
3/26/07	APPEARANCE from Attorney Thomas E. Reilly on behalf of Appellee WRS Inc, filed. (tmk)
3/26/07	DISCLOSURE STATEMENT on behalf of Appellee WRS Inc, filed. (tmk)
3/29/07	ORDER to Virginia S. Pease directing transcript, ordered on 3/23/07, to be filed by 4/25/07, filed. (tmk)
3/30/07	Civil Information sent on behalf of appellee WRS, Inc. (pdb)
4/27/07	TRANSCRIPT PURCHASE ORDER (Part III) notifying transcript by Virginia S. Pease filed in D.C., filed. (pdb)
5/10/07	FOLLOW UP LETTER to John W. Gibson requesting the following documents: **Appearance Form **Disclosure Statement ZZ#SEND ZZ#TO ZZ#MERITS ZZ#PANEL (pdb)
6/22/07	APPEARANCE from Attorney John Sieminski on behalf of Appellant John Herklotz, filed. (pdb)
6/26/07	BRIEFING NOTICE ISSUED. Appellant brief and appendix due 8/6/07. (pdb)
7/23/07	APPEARANCE from Attorney John W. Gibson on behalf of Appellees Plaza Ent Inc, Eric Parkinson and Charles Von Bernuth, filed. (pdb)
7/23/07	DISCLOSURE STATEMENT on behalf of Appellees Plaza Ent Inc, Eric Parkinson and Charles Von Bernuth, filed. (pdb)

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7/26/07	MOTION by Appellee for Relief Seeking to Strike Appearance of John Gibson, Esquire for Plaza Entertainment, Inc., Charles Von Bernuth, and Eric Parkinson and To Strike any Reference from The Docket that They Are Parties to The Within Appeal. Answer due 8/6/07. Certificate of Service dated 7/24/07. (pdb)
7/30/07	MOTION by Appellant for extension of time to file brief and appendix until 9/5/07, filed. Answer due 8/13/07. Certificate of Service dated 7/27/07. (pdb)
7/30/07	WITHDRAW OF APPEARANCE: attorney Ira L. Podheiser for John Herklotz withdrawing appearance. (pdb)
8/1/07	ORDER (Clerk) granting motion to extend time to file brief and appendix by Appellant. Appellant's brief and appendix shall be filed and served on or before September 5, 2007. In the Event the parties need additional time to complete a settlement, another motion may be filed setting forth the progress in settlement negotiations, filed. (pdb)
8/17/07	RESPONSE by Appellees Plaza Ent Inc, Eric Parkinson & Charles Von Bernuth in opposition to motion to strike any reference from the docket that they are parties to the appeal, received. Certificate of service dated 8/10/07. (tmk)
9/6/07	HARD COPY RECEIVED from Appellant John Herklotz submitting 10ccs of brief with appendix volume 1 attached. (eaf)
9/6/07	APPENDIX on behalf of Appellant John Herklotz, Copies: 4, Volumes: 2 (volume 1 attached to brief), Delivered by mail, filed. Certificate of service date 9/5/07. (eaf)
9/7/07	ORDER (Clerk) considering the motion by appellee to strike the appearance of John Gibson and to strike any reference from the docket that they are parties to the within appeal and response in opposition to motion by John Gibson. The motion to strike is denied as presented. As Plaza Entertainment, Inc., Charles Von Bernuthand Eric Parkinson did not file a notice of appeal, they cannot proceed as AppellZZ_ants in this appeal. However, as they were parties in the District Court action, Plaza Entertainment, Charles Von Bernuth and Eric Parkinson are entitled to participate in the appeal as AppellZZ_ees, and have been so designated by the clerk. Mr. Gibson's appearance has been entered as counsel for Appellees, Plaza Entertainment, Charles Von Bernuth and Eric Parkinson, filed. (pdb)
9/13/07	Notice of telephone request to John Sieminski, counsel for the Appellant, requesting e-brief including virus/identical certifications, motion to file brief in non-compliant font size and letter Regarding Statement of Related Cases. Response due in 3 days. (eaf)

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9/20/07	MOTION by Appellee for extension of time to file brief until 10/23/07, filed. Answer due 10/1/07. Certificate of Service dated 9/18/07. (pdb)
9/21/07	COMPLIANCE RECEIVED. Received e-brief, motion and letter on behalf of the Appellant. (eaf)
9/21/07	MOTION by Appellant John Herklotz to File Brief in Non-Compliant Font Size, filed. Answer due 10/5/07. Certificate of Service dated 9/20/07. (eaf)
9/21/07	LETTER dated 9/20/07 on behalf of the Appellant providing the Court with Statement of Related Cases, filed. ZZ#SEND ZZ#TO ZZ#MERITS ZZ#PANEL (eaf)
9/21/07	ELECTRONIC BRIEF on behalf of Appellant John Herklotz, Copies: 1, Pages: 34, Word Count: 9,914, delivered by mail, filed. Certificate of service date 9/5/07. See c/o dated 10/17/07. (eaf)
9/25/07	ORDER (Clerk) granting motion for extension of time to file brief by Appellee WRS Inc. WRS, Inc.'s brief shall be filed and served on or before October 23, 2007, filed. (pdb)
10/17/07	ORDER (Clerk) granting motion by Appellant for Leave to File brief in Noncompliant Font Size with filing as of September 21, 2007, filed. (eaf)
10/19/07	APPEARANCE from Attorney James R. Walker on behalf of Appellee Charles Von Bernuth, filed. (tmk)
10/22/07	ELECTRONIC BRIEF on behalf of Appellee WRS Inc, Copies: 1, Pages: 38, Word Count: 8,677, delivered by mail, filed. Certificate of service date 10/22/07. (mcw)
10/23/07	HARD COPY RECEIVED of brief from Appellee WRS Inc, Copies: 10. (mcw)
10/23/07	MOTION by Appellee WRS Inc to file supplemental appendix, filed. Answer due 11/5/07. Certificate of Service dated 10/22/07. (mcw)
10/26/07	MOTION by Appellee Charles Von Bernuth to remand case to the District Court for further proceedings and consideration of Mr. Von Bernuth's Motion for Reconsideration or Relief under Rule 60(b) or in the alternative, to the extent that this Court is not inclined to remand until after the District Court has indicated willingness to grant Mr. Von Bernuth's Motion for Reconsideration or Relief Under 60(b), Mr. Von Bernuth requests that proceedings in this Court be stayed until the District Court either denies or indicates its intention to grant Mr. Von Bernuth's Motion for Reconsideration or under 60(b), filed. Answer due 11/5/07. Certificate of Service dated 10/16/07. (pdb)

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11/2/07 MOTION by Appellant to extend time to file reply brief until 11/19/07, filed. Answer due 11/16/07. Certificate of dated 10/31/07. (tmk)

11/6/07 RESPONSE filed by Appellee WRS Inc to the motion to remand, or in the alternative for stay filed by Appellee, Charles Von Bernuth, filed. Certificate of Service dated 11/5/07. (pdb)

11/23/07 HARD COPY RECEIVED of reply brief from Appellant, Copies: 10. (mcw)

11/30/07 Notice of telephone request to John P. Sieminski, counsel for Appellant, for motion for leave to file supplemental appendix attached to reply brief. Response due in 3 days. (mcw)

12/10/07 COMPLIANCE RECEIVED. Motion by Appellant for leave to file supplemental appendix, received. (mcw)

12/10/07 MOTION by Appellant for leave to file supplemental appendix, filed. Answer due 12/24/07. Certificate of Service dated 12/7/07. (mcw)

12/11/07 ORDER (Ambro, Authoring Judge and Fuentes, Circuit Judges) granting motion to stay the proceedings in this Court until the District Court either rules on or reconsiders Mr. Von Bernuth's motion under 60(b), filed. CCO-17 (pdb)

12/11/07 Certified copy of order to Lower Court. (pdb)

12/26/07 ORDER (Clerk) Considering motions by Appellee WRS, Inc. to file supplemental appendix,motion by Appellant for extension of time to file a reply brief and motion by Appellant to file a supplemental appendix. Appellee's motion to file supplemental appendix is granted. At the time fo filing its brief, Appellee's may file a supplemental appendix consisting of documents from the District Court record that Appellee believes are necessary for the litigation of this appeal. It should be noted that in the event Appellee are entitled to costs at the conclusion of the appeal, Appellee will not be able to recover costs for any documents which may be included in the supplemental appendix which are duplicative of documents contained in Appellant's appendix. Appellant's motions are denied as unnecessary with prejudice to The time for filing a reply brief does not start until all Appellees brief are filed. Appellant is advised that the Appellant can only file one reply brief in response to all Appellees' briefs. Appellees Plaza Entertainment Inc., Eric Parkinson and Charles Von Bernuth are advised that their briefs are due thirty (30) days after the District Court rules on Mr. Von Bernuth's motion under 60 Fed.R. Civ.P.(b).The parties are directed to file status report within thirty (30) days of the date of this order and every thirty (30) days thereafter advising the Court of the status of the pending Fed.R. Civ.P. 60(b) motion in District Court, filed. (mcw)

1/8/08 SUPPLEMENTAL APPENDIX on behalf of Appellee WRS Inc. Copies: 4, Volumes: 1, Delivered by mail, filed. Certificate of service date 1/7/08. (See Clk/O of 12/26/07) (gpk)

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PACER Service Center			
Transaction Receipt			
01/15/2008 12:04:33			
PACER Login:	bw0074	**Client Code:**	02514-129966
Description:	dkt report	**Case Number:**	07-1712
Billable Pages:	8	**Cost:**	0.64